IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

CRL.A.No. 476 of 1998(B)

CC.85/1997 DTD. 30/04/98 OF CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA.

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APPELLANT:

M.K. THANKACHAN,
VADAKKEDATHU HOUSE,
PATHANAMTHITTA.

BY ADV. SRI.SEBASTIAN PHILIP.

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR.**
2. **KOSHY P. THOMAS, PUTHENKAVIL HOUSE, CHANDANAPPALLY.P.O., PATHANAMTHITTA.**
3. **RAHEL THOMAS, PUTHENKAVIL HOUSE, CHANDANAPPALLY.P.O., PATHANAMTHITTA.**
4. **DAISY KOSHY, PUTHENKAVIL HOUSE, CHANDANAPPALLY.P.O., PATHANAMTHITTA.**
5. **PUTHENKAVIL RUBBER STORES, CHANDANAPPALLY.P.O., PATHANAMTHITTA.**

BY PUBLIC PROSECUTOR SRI. K.M. FIROZ.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl. Appeal No. 476 of 1998

Dated this the 14th day of February, 2007

Judgment

This appeal is filed against an order of acquittal. Notice was ordered on 20.7.1998. No effective steps were taken to send notice. Process was not filed and defects were not cured. Finally, defects were cured and notice was sent. Notice was returned with the endorsement that the shop was closed and left the place two years prior to the issuance of the notice. If notice was served on 20.7.1998 when notice was ordered in this case, notice would have been served, but, process was filed only on 29.3.2006 for the first time for the notice ordered on 20.7.1998. Anyway, on 4.10.2006, this court further gave two weeks' time as last chance for curing the defect. Instead of two weeks, two months have passed, but, no steps at all were taken. No steps were taken after 4.10.2006. It is stated by the counsel for the appellant that steps are being taken thereafter, but, that also is in the old address, even though it is seen when notice was returned earlier that addressee is not residing in that address. Without serving notice on the accused and without taking effective steps to serve notice on the accused the appeal cannot be decided in favour of the appellant. Apart from

the above, the trial court noticed that several adjournments were given to file correct address of respondent Nos.2 and 3 and in spite of directions, correct address was not furnished. That ended in acquittal of the accused. It cannot be stated that the view of the trial court is unjust or illegal as without furnishing the correct address and details of service of notice, case cannot be prosecuted and the criminal case cannot be kept pending for long. There is no merit in the appeal and the appeal is dismissed.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy J.

Crl.A. No. 476 of 1998

Judgment

14-2-2007